

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA

FILED *for RKS*
AUG 03 2010

JULIA C. DUDLEY, CLERK
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WALTER STEVE WILSON,
Petitioner,

Civil Action No. 7:10-cv-00341

v.

MEMORANDUM OPINION

GENE JOHNSON, et al.,
Respondents.

By: Hon. Jackson L. Kiser
Senior United States District Judge

Petitioner Walter Steve Wilson, a Virginia inmate proceeding pro se, filed a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254. However, court records indicate that the petitioner previously filed a § 2254 petition concerning the same conviction, Civil Action No. 7:08-cv-00578 (W.D. Va.). Thus, the petitioner's current petition is a subsequent one, falling under the prohibition in 28 U.S.C. § 2244(b) against a second or successive petition. Pursuant to this section, a federal district court may consider a second or successive § 2254 petition only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the petition meet certain criteria. 28 U.S.C. § 2244(b). Because the petitioner has not submitted any evidence that he has obtained such certification by the Court of Appeals, I dismiss the petition without prejudice as successive.* Based upon the finding that the petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is denied. The Clerk is directed to send copies of this memorandum opinion and the accompanying order to the petitioner.

ENTER: This 3rd day of August, 2010.

Jackson L. Kiser
Senior United States District Judge

*A Fourth Circuit form and instructions for filing a request for certification to file a subsequent petition are available from the Fourth Circuit at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.